



IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re Application of: :
:

Seibel et al. : Group Art Unit: 1635

Serial No: 08/765,244 : Examiner: K. Lacourciere

Filed: October 30, 1997 : Confirmation No. 5827

For: CHIMERICAL PEPTIDE-NUCLEIC ACID
FRAGMENT, PROCESS FOR PRODUCING
THE SAME AND ITS USES FOR APPROPRIATELY
INTRODUCING NUCLEIC ACIDS INTO CELL
ORGANELLES AND CELLS

CERTIFICATE OF MAILING

I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as EXPRESS MAIL in an envelope addressed to the Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450

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B. Kroge

RESPONSE TO REQUIREMENT FOR RESTRICTION

Commissioner for Patents
PO Box 1450
Alexandria, VA 22313-1450

Sir:

In response to the Office Action mailed July 30, 2003, Applicants respectfully request reconsideration of the requirement for restriction. This response is accompanied by a Petition for Extension of Time and payment of the necessary fee.

The Patent Office has required restriction under 35 U.S.C. 121, alleging that the following claims groups represent patentably distinct inventions:

- I. Claims 84-104, drawn to a chimeric peptide nucleic acid construct where the nucleic acid is linear.
- II. Claims 105-128, 131-134, drawn to a chimeric peptide nucleic acid construct where the nucleic acid is cyclic.
- III. Claims 129-130, drawn to a method of making a chimeric peptide nucleic acid construct.

The Patent Office has alleged that the inventions of Groups I and II are unrelated, as materially different compositions with different modes of operation and structures (containing linear vs cyclic) nucleic acids. The Patent Office has alleged that the constructs operate through different mechanisms and provide different effects. Inventions I (or II) and III are related as process of making and product made. In addition, the Patent Office requires the election of species of amino acid sequence (SEQ ID NO:1 or NO:22) within Group I.

Applicants respectfully elect, with traverse, the claims of Group I for examination, and further elect SEQ ID NO:22 for examination. Applicants respectfully request rejoinder of the claims of Groups I and II, which differ in linear vs cyclic nucleic acids. Because of this relatively minor difference, Applicants respectfully maintain that searching both would not impose an undue burden on the Patent and Trademark Office.

The Drawings

Replacement Figure 6B is enclosed herewith, as required by the Patent and Trademark Office.

Conclusion

In view of the foregoing, it is submitted that this case is in condition for allowance, and passage to issuance is respectfully requested.

If there are any outstanding issues related to patentability, the courtesy of a telephone interview is requested, and the Examiner is invited to call to arrange a mutually convenient time.

This amendment is accompanied by a Petition for Extension of Time (one month) and a check in the amount of \$55.00 as required under 37 C.F.R. 1.17. It is believed that this amendment does not necessitate the payment of any additional fees under 37 C.F.R. 1.16-1.17. If the amount submitted is incorrect, however, please charge any deficiency or credit any overpayment to Deposit Account No. 07-1969.

Respectfully submitted,



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Attorney Docket No.: 94-02
bmk: September 23, 2003